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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,696	09/17/2003	Hitoshi Nagata	031157	3979

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EXAMINER

CAO, ALLEN T

ART UNIT PAPER NUMBER

2652

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/663,696	Applicant(s) NAGATA ET AL.	
	Examiner Allen T. Cao	Art Unit 2652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-13 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-13 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/663,697. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

a) Claims 1-3 and 12 of the present invention application are substantially same as the combination limitations of claims 1-5 of the copending application 10/663,697. All the major limitations of the claims 1-3 and 12 of the present invention application have been disclosed by the copending application 10/663,696 except some minor used languages.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to rearrange the combination limitations of claims 1-5 of the copending application in order to match with the limitations of claims 1-3 and 12 as set forth in present invention application.

b) Claim 2 of the present invention application is substantially same as claim 3 of the copending application 10/663,697.

c) Claim 13 of the present invention application is same as claim 4 of the copending application 10/663,697.

d) Claim 1 of the present invention application is substantially same as claim 5 of the copending application 10/663,697.

e) Claim 4 of the present invention application is substantially same as claim 6 of the copending application 10/663,697.

f) Claim 5 of the present invention application is same as claim 7 of the copending application 10/663,697.

g) Claim 6 of the present invention application is same as claim 8 of the copending application 10/663,697.

h) Claim 7 of the present invention application is same as claim 9 of the copending application 10/663,697.

i) Claim 9 of the present invention application is same as claim 10 of the copending application 10/663,697.

j) Claim 10 of the present invention application is same as claim 11 of the copending application 10/663,697.

k) Claim 11 of the present invention application is same as claim 12 of the copending application 10/663,697.

l) Claim 13 of the present invention application is same as claim 4 of the copending application 10/663,697.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Sako et al (US. 6,278,677 B1).

Sako et al discloses a reproducing/recording apparatus having a first disk tray 3 for mounting a first disk 7 thereon and a second disk tray 2 for mounting a second disk 6 that is of a type different from the type of the first disk thereon, the first disk tray being adapted to be moved into and away from the apparatus through a single disk inlet/outlet port (figure 1(b)-1(d)) with the second disk tray 2 laid thereon, all as set forth in claim 1.

Regarding claim 5, Sako et al discloses a locking mechanism 8 for locking the first disk tray and the second disk tray laid on the first disk tray together (column 7, lines 48-58).

Regarding claim 6, Sako et al discloses that the locking mechanism has a resilient detent member (8d including spring 9, figures 16(a)-16(f)) arranged on the first disk tray 3 and provided at the front end thereof with an engaging projection and an engaging hole cut through the second disk tray 2 and adapted to be engaged with the corresponding engaging projection (figures 5(a)-5(b) and 16(a)-16(f) inherently disclose

that there are a projection pin of the disk tray 3 projecting through a hole cut of the upper disk tray 2), all as set forth in claim 6.

Regarding claim 7, Sako et al inherently discloses that the resilient detent member is adapted to align the first disk.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sako et al in view of Inoue et al (US. 6,665,255 B1).

Sako et al only discloses one read/write mechanism for both disks.

Sako et al does not disclose two read/write mechanism as set forth in claim 2.

Inoue et al discloses a loading/unloading mechanism having a first reproducing/recording mechanism 3 for read/write data from a disk cartridge CDS (column 8, line 62 to column 9, line 17; see also claim 1); and a second reproducing/recording mechanism 4 for read/write data from a bare disk DS (column 7, line 59 to column 8, line 2; see also claim 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the loading/unloading apparatus of Kawamura et al with an additional second read/write mechanism as set forth, supra as taught by Inoue et al.

The rationale is as follows: One of ordinary skill in the art would have been motivated to provide the loading/unloading apparatus of Kawamura et al with an

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additional second read/write mechanism as set forth, supra as taught by Inoue et al to speed up the write/read characteristics of the disk cartridge and the bare disk in order to improve the read/write characteristics of the disk apparatus. Additionally, it also provides a more variety choices of loading/unloading different media.

Regarding claim 3, Inoue et al discloses that the cartridge/disk combination including a disk main body contained in a cartridge and the second disk is a bare disk.

Regarding claim 8, Sako et al inherently discloses that the first reproducing/recording mechanism reproduces data from and/or records data onto the second disk.

Regarding claim 4, Sako et al as modified by Inoue et al do not clearly disclose that the first disk is used with a blue laser beam and the second disk is used with a red laser beam.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to indicate that the beam reads the first disk of the read/write mechanism of Inoue et al is a blue laser beam and the beam reads the second disk of the read/write mechanism of Inoue et al is a red laser beam, or vice versa is an obvious engineering choices to choose the type of the laser beam (notes that an optical disk are read by either blue or red laser beam).

7. Claims 9-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed 11/03/05 have been fully considered but they are not persuasive.

In the REMARKS, Applicant argues that the provisional double patenting rejection is not proper (see Applicant's REMARKS, pages 2-3).

Claim 5 of the Application 10/663,697 discloses substantially all the limitations of the claim 1 of the present Application except some minor used languages.

Claim 1 of the Application 10/663,697 discloses the first reproducing/recording apparatus as set forth claim 2 of the present Application except some minor used languages; claim 3 of the Application 10/663,697 introduces the second reproducing/recording apparatus as set forth claim 2 of the present Application except some minor used languages; and claim 4 of the Application 10/663,697 discloses substantially the limitations of the claim 2 of the present Application except some minor used languages.

Claim 2 of the Application 10/663,697 discloses substantially all the limitations of the claim 3 of the present Application except some minor used languages.

Claims 2-5 (of the Application 10/663,697) are depending to claim 1 (of the Application 10/663,697).

Therefore, the Examiner maintains that the provisional double patenting is proper as set forth, in the above Office Action.

Applicant also argues that Sako is not a proper basis for rejection because Sako does not disclose a "second disk tray for mounting a second disk that is of a type different from the type of the first disk thereon".

Sako discloses a reproducing/recording apparatus having a first disk tray 3 for mounting a first disk 7 thereon and a second disk tray 2 for mounting a second disk 6 that is of a type different from the type of the first disk thereon (disk 6 is different type from the disk 7 of the first disk tray). Therefore, the Examiner maintains the rejection is proper.

Applicant further argues that "If, arguendo, in Sako, one of the plurality of pairs of main and sub-disk trays (in Sako's Figure 20b) may be considered as the applicant's claimed "second disk tray," there is no teaching in Sako that one of such pairs are loaded and unloaded from a single disk inlet/outlet".

The Examiner respectfully points out that Applicant argues the limitations which are not in the claim. Applicant does not claim for "...one of such pairs are loaded and unloaded from a single disk inlet/outlet". Applicant only claims "... the first disk tray being adapted to be moved into and away from the apparatus through a single disk inlet/outlet port with the second disk tray laid thereon".

Sako has been relied upon to disclose that the first disk tray is adapted to be moved into and away from the apparatus through a single disk inlet/outlet port (figure 1(b)-1(d)) with the second disk tray 2 laid thereon, all as set forth in claim 1.

Therefore, The Examiner again maintains the rejection is proper.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen T. Cao whose telephone number is (571) 272-7569. The examiner can normally be reached on Mon - Thurs (7:30 - 6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on (571) 272-4483. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Allen Cao', with a long horizontal flourish extending to the right.

Allen Cao
Primary Examiner

AC
July 11, 2005